

Subpart 950.70—Nuclear Indemnification of DOE Contractors

950.7000 Scope of subpart.

The General Services Administration (GSA) and, in some cases, the Department of Defense (DOD) Military Traffic Management Command negotiate agreements with commercial organizations to provide certain discounts to contractors traveling under Government cost-reimbursable contracts. In the case of discount air fares and hotel/motel room rates, the GSA has established agreements with certain airlines and thousands of hotels/motels to extend discounts which were previously only available to Federal employees on official travel status. DOD has negotiated agreements with car rental companies for special rates with unlimited mileage which were also to be used by only Federal employees on official Government business. GSA Federal Property Management Regulations (FPMRs) make these three travel discounts available to Government cost-reimbursable contractors at the option of the vendor.

[60 FR 30005, June 7, 1995]

951.7001 General policy.

Contracting officers will encourage DOE cost-reimbursable contractors (CRCs) to use Government travel discounts to the maximum extent practicable in accordance with contractual terms and conditions. Vendors providing the service may require that Government contractor employees furnish a letter of identification signed by the authorizing contracting officer. Contracting officers shall provide CRCs with a “Standard Letter of Identification” when appropriate to do so. An example of a “Standard Letter of Identification” is at 952.251–70(e).

[60 FR 30005, June 7, 1995]

950.7002 Definitions.

DOE contractor means any DOE prime contractor, including any agency of the Federal Government with which DOE has entered into an interagency agreement.

Nuclear incident means any occurrence, including an extraordinary nuclear occurrence, within the United

States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material. The term includes any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States.

Person indemnified means:

(1) With respect to a nuclear incident occurring within the United States or outside the United States as the term is defined above and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability; or

(2) With respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Secretary of Energy or any project to which indemnification under the provisions of section 170d. of the Atomic Energy Act of 1954, as amended, has been extended or under any subcontract, purchase order, or other agreement, or any tier under any such contract or project.

Public liability means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or precautionary evacuation), except: (1) Claims under State or Federal workmen’s compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (2) claims arising out of an act of war; and (3) whenever

Department of Energy

950.7101

used in subsections a., c., and k. of section 170 of the Atomic Energy Act of 1954, as amended, claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. *Public liability* also includes damage to property of persons indemnified: Provided, that such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

[49 FR 12039, Mar. 28, 1984, as amended at 50 FR 12185, Mar. 27, 1985; 56 FR 57827, Nov. 14, 1991]

950.7003 Nuclear hazards indemnity.

(a) Section 170d. of the Atomic Energy Act, as amended, requires DOE “to enter into agreements of indemnification with any person who may conduct activities under a contract with (DOE) that involve the risk of public liability * * *.” However, DOE contractors whose activities are already subject to indemnification by the Nuclear Regulatory Commission are not eligible for such statutory indemnity. See 950.7006 below.

(b) The Heads of Contracting Activities shall assure that contracts subject to this requirement contain the appropriate nuclear hazards indemnity provisions.

[56 FR 57828, Nov. 14, 1991, as amended at 59 FR 9108, Feb. 25, 1994]

950.7004–950.7005 [Reserved]

950.7006 Statutory nuclear hazards indemnity agreement.

(a) The contract clause contained in 952.250–70 shall be incorporated in all contracts in which the contractor is under risk of public liability for a nuclear incident or precautionary evacuation arising out of or in connection with the contract work, including such events caused by a product delivered to a DOE-owned facility for use by DOE or its contractors. The clause at 952.250–70 shall be included in contracts with architect-engineer contractors for the design of a DOE facility, the construction or operation of which may involve the

risk of public liability for a nuclear incident or a precautionary evacuation.

(b) However, this clause shall not be included in contracts in which the contractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for activities to be performed under the contract.

[56 FR 57828, Nov. 14, 1991, as amended at 59 FR 9108, Feb. 25, 1994]

950.7007–950.7008 [Reserved]

950.7009 Fees.

No fee will be charged a DOE contractor for a statutory nuclear hazards indemnity agreement.

[49 FR 12039, Mar. 28, 1984, as amended at 56 FR 57828, Nov. 14, 1991]

950.7010 Financial protection requirements.

DOE contractors with whom statutory nuclear hazards indemnity agreements under the authority of section 170d. of the Atomic Energy Act of 1954, as amended, are executed will not normally be required or permitted to furnish financial protection by purchase of insurance to cover public liability for nuclear incidents. However, if authorized by the DOE Headquarters office having responsibility for contractor casualty insurance programs, DOE contractors may be (a) permitted to furnish financial protection to themselves or (b) permitted to continue to carry such insurance at cost to the Government if they currently maintain insurance for such liability.

[56 FR 57828, Nov. 14, 1991]

Subpart 950.71—General Contract Authority Indemnity

950.7101 Applicability.

(a) The DOE also has general contract authority to enter into indemnity agreements with its contractors. Under such authority a certain measure of protection is extended to the DOE contractor against risk of liability, but the assumption of liability by DOE will be expressly subject to the availability of appropriated funds.